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10/565,045	01/17/2006	Philip Paul O'Brien	BWT06-01(EMPICS)	3678
58406 7590 03/09/2010 BARRY W. CHAPIN, ESQ. CHAPIN INTELLECTUAL PROPERTY LAW, LLC WESTBOROUGH OFFICE PARK 1700 WEST PARK DRIVE, SUITE 280 WESTBOROUGH, MA 01581				
EXAMINER				
JACOB, AJITH				
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2161				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docket@chapin-ip-law.com

Office Action Summary

Application No.

10/565,045

Applicant(s)

O'BRIEN, PHILIP PAUL

Examiner

AJITH JACOB

Art Unit

2161

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 November 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-21, 23-33, 42 and 43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-21, 23-33, 42 and 43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-4, 6-21, 23-33, 42 and 43 fall under the judicial exception of an abstract idea, which lacks a useful, concrete, and tangible result. A claimed series of steps or acts that do not result in a useful, concrete, and tangible result are not statutory within the meaning of 35 U.S.C. 101. In the instant case, the claims recite computer programs, methods, systems image transmission and sizing. However, no useful, concrete and tangible result is claimed. These claims are rejected under 35 U.S.C. 101 and appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-4, 6-21, 23-33, 42 and 43 are rejected under 35 U.S.C. 102(b) as being anticipated by Tran et al. (US 6,157,935).

For claim 1, Tran et al. teaches:

A distributed image processing system for collecting images of an event and for distributing an image so taken to one or more

client devices while the event is ongoing, the system comprising a terminal associated with a camera, and a first editing facility located away from the camera and terminal; wherein

the terminal is configured to receive from the camera a master image file corresponding to an image of the event captured by the camera,

to store the master image file, to create a preview image file

from the master image file where the preview image file has a smaller file size than the master image file, and to transmit the preview image file to the first editing facility

[computer with storage and editing tools, column 5, lines 31-55];

wherein the terminal is further configured to transmit the master image file to the first editing facility upon receiving a request from the first editing facility and wherein the first editing facility is configured to facilitate editing a master image associated with the master image file and to amend the associated master image file in response thereto, and to transmit the master image file to a remote client device [compression tools, column 7, lines 16-25]

For claim 2, Tran et al. teaches:

The image processing system of claim 1, wherein the first editing facility comprises an editing tool operable to facilitate editing an image associated with a preview image file and to amend the associated file in response thereto [editing tools, column 5, lines 31-55].

For claim 3, Tran et al. teaches:

The image processing system of claim i, wherein the terminal is configured to

look in the master image file for data corresponding to a preview image in the master image file and, if such data is found, to extract the data to the preview image file [tools for data analysis, column 5, lines 31-55].

For claim 4, Tran et al. teaches:

The image processing system of claim 3 wherein, if data corresponding to a preview image is not found, the master image is resized and the data corresponding to the resized image is written to the preview image file [compression of data, column 7, lines 16-25].

For claim 6, Tran et al. teaches:

The image processing system of claim 1, further comprising a second editing facility configured to facilitate editing an image associated with a preview image file and to amend the associated file in response thereto and to transmit a preview image file to a client device and wherein the first editing facility is operable to transmit preview image files to the second editing facility [transmission of compressed image to communication device, column 7, lines 61-67 – column 8, lines 1-4].

For claim 7, Tran et al. teaches:

The image processing system of claim 6, wherein the first editing facility is further configured to transmit the master image file to the second editing facility upon receiving a request from the second editing facility and/or wherein the terminal is further configured to transmit the master image file to the second editing facility upon receiving a request from the second editing facility, and wherein the second editing facility is configured to facilitate editing an image associated with a master image

file and to amend the associated master image file in response thereto and to transmit a master image file to a client device [transmission capability of personalized messages received from computer to client, column 9, lines 31-53].

For claim 8, Tran et al. teaches:

The image processing system of claim 6, wherein the second editing facility has an associated archive and wherein the first and/or second editing facilities are configured to send preview images to the archive [first facility storage, column 7, lines 1-15 and second storage, column 10, lines 46-67 – column 11, lines 1-2].

For claim 9, Tran et al. teaches:

The image processing system of claim 6, wherein the first and/or second editing facilities are configured to send master image files to the archive [first facility sending image to storage, column 7, lines 1-15 and second storage, column 10, lines 46-67 – column 11, lines 1-2].

For claim 10, Tran et al. teaches:

The image processing system of claim 6, further comprising an output server through which image files are sent for onward transmission to a client device [transmission through network, column 7, lines 16-25].

For claim 11, Tran et al. teaches:

The image processing system of claim 10, wherein the output server is configured to regulate the delivery of image files to one or more client devices [transmit by internet, telephone and fax, column 7, lines 16-25].

For claim 12, Tran et al. teaches:

The image processing system of claim 6, wherein either the first or second editing facility is configured to create MMS messages that include preview images [message image, column 7, lines 61-67 – column 8, lines 1-4 and smaller file, column 9, lines 31-34].

For claim 13, Tran et al. teaches:

The photographic processing system of claim 12, wherein the editing facility is configured to receive a file containing text describing an event, to search the text for pre-defined terms, to create a new file containing text and images upon finding a pre-defined term and to transmit the new file to client device [data ready for text data processing, column 5, lines 31-55].

For claim 14, Tran et al. teaches:

The image processing system of claim 13, wherein the editing facility is configured automatically to extract text from the incoming text file and to write the text to the new file [text data processor, column 5, lines 31-55].

For claim 15, Tran et al. teaches:

The image processing system of claim 13, wherein the editing facility is configured automatically to retrieve an image from an archive and to write the image to the new file [editing tools, column 5, lines 31-55].

For claim 16, Tran et al. teaches:

The image processing system of claim 6, wherein either

the first or second editing facility is configured to create http slide shows that include preview images [image to browser in first facility, column 5, lines 31-55].

For claim 17, Tran et al. teaches:

An image processing system for collecting images of an event taken by a camera and for distributing an image so obtained to one or more remote client devices, the system comprising:

a terminal and first and second editing facilities [terminal, first and second device through communication, column 7, lines 61-67 – column 8, lines 1-4];

wherein the terminal is operable to receive and store an image of the event as an electronic image file and to transmit the image file to the first editing facility [store and ready to transmit, column 5, lines 16-30]; and wherein the first editing facility is local to the event, but located away from the terminal, and is configured

(a) to receive the image file transmitted by the terminal [image reception, column 5, lines 31-55],

(b) to determine a suitable editing station for displaying the image associated with the image file, and to display the image at the editing station [editing tools, column 5, lines 31-55],

(c) to facilitate selection of the image displayed at the editing station [display tools, column 5, lines 31-55],

(d) to facilitate selection of an output destination for the selected image file wherein available output destinations include the second editing facility and one or more client

devices [output capability, column 7, lines 36-60],

and

(e) to transmit the selected file to the selected output destination [output to communication device, column 7, lines 36-60]; and wherein the second editing facility is remote from the event and is configured

(a) to receive an image file transmitted by the first editing facility [receive image, column 7, lines 61-67 – column 8, lines 1-4],

(b) to display the image associated with the image file at an editing station [display at edit, column 10, lines 25-45],

(c) to facilitate selection of the displayed image [display, column 10, lines 25-45],

(d) to facilitate editing of the selected image [edit, column 10, lines 25-45],

(e) to facilitate selection of an output destination for the selected image file, wherein available output destinations include one or more client devices [send data, column 9, lines 31-53], and

(f) to transmit the selected file to the selected output destination [transmit, column 9, lines 31-53].

Claims 18-21 and 23-33 is a method of the system taught by claims 1-4 and 6-16, respectively. Tran et al. teaches the limitations of claims 1-4 and 6-16 for the reasons stated above.

For claim 42, Tran et al. teaches:

The image processing system of claim 1, wherein the first editing facility is configured to transmit a preview image file to a client device [transfer compressed data to client, column 7, lines 16-25].

Claim 43 is a method of the system taught by claim 42. Tran et al. teaches the limitations of claim 42 for the reasons stated above.

Response to Arguments

4. Applicant's arguments filed November 25, 2009 have been fully considered but they are not persuasive. The examiner respectfully traverses applicant's argument.

Although the claims have been amended to clarify the 35 U.S.C. 101 rejection, it still lacks the hardware necessary to overcome the rejection, since the terminal is only described in the arguments by the applicant and not in the claims. A description of "computer-readable storage medium" for the terminal should overcome the rejection since applicant argues that the terminal is a laptop.

Applicant argues that Tran et al. (US 6,157,935) does not teach a distributed system, having a first editing facility located away from the camera and terminal. The reference clearly teaches a CPU receiving images for a camera over a network that can edit the images [column 7, lines 16-35], thus teaching over this distribution system step.

In light of the forgoing arguments, the 35 U.S.C. 102 rejection is hereby sustained.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ajith Jacob whose telephone number is 571-270-1763. The examiner can normally be reached on M-F 7:30-5:00 EST, Every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Apu Mofiz can be reached on 571-272-4080. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

2/27/2010

AJ
Patent Examiner

/Apu M Mofiz/

Supervisory Patent Examiner, Art Unit 2161